

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

CAROL W. OATIS

PLAINTIFF

v.

CIVIL ACTION NO. 2:13cv46-KS-MTP

BLACK FARMERS SETTLEMENT, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

THIS MATTER is before the Court *sua sponte* for case management purposes. Plaintiff Carol W. Oatis, proceeding *pro se*, filed his Complaint [1] on March 11, 2013. On May 21, 2014, the undersigned issued an order, noting that no defendant had yet appeared and that the docket did not reflect that the plaintiff had served process on any defendant. *See Order [12]*. The order directed plaintiff to serve process and file the appropriate proofs of service on or before June 21, 2014. *Id.* The plaintiff was warned that a failure to comply would result in the action being dismissed without prejudice as to all unserved defendants pursuant to Federal Rule of Civil Procedure 4(m). *Id.*

Fed. R. Civ. P. 4(m) states:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Plaintiff submitted a letter to the Court on June 20, 2014, but gave no explanation as to the failure to serve process and merely reiterated the arguments sent forth in the complaint. *See Letter [13]*. The 120-day period provided by Rule 4(m), as well as the June 21, 2014 deadline set by the Court, has long passed. Accordingly, this action should be dismissed without prejudice.

RECOMMENDATION

For the reasons set forth above, the undersigned recommends that the Complaint [1], filed by Plaintiff Carol Oatis, be dismissed without prejudice in accordance with Federal Rule of Civil Procedure 4(m).

NOTICE OF RIGHT TO OBJECT

In accordance with the rules and 28 U.S.C. § 636(b)(1), any party within fourteen days after being served a copy of this recommendation, may serve and file written objections to the recommendations, with a copy to the judge, the magistrate judge and the opposing party. The District Judge at the time may accept, reject or modify in whole or part, the recommendations of the Magistrate Judge, or may receive further evidence or recommit the matter to this court with instructions. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within fourteen days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court to which the party has not objected. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

THIS, the 22nd day of January, 2015.

s/ Michael T. Parker
United States Magistrate Judge